



# San Diego City Attorney **MICHAEL J. AGUIRRE**

## **NEWS RELEASE**

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### **CITY ATTORNEY'S INVESTIGATIVE REPORT ALLEGES VINSON & ELKINS LAW FIRM COMMITTED PROFESSIONAL NEGLIGENCE**

**San Diego, CA :** Today City Attorney Michael Aguirre issued *Interim Report #9 on Breach of Contract, Fiduciary Duties, and Professional Negligence by Vinson & Elkins LLP*. The report concludes that Vinson & Elkins breached legal duties owed to the City of San Diego.

"This report lays out, step by step, the obligations of Vinson & Elkins that were repeatedly, systematically, and *knowingly* disregarded. It took them two years and \$6 million to issue a report that was beneath professional standards, according to both the City's outside auditor, KPMG, and the SEC. It was worthless," said Aguirre. "It's time for the taxpayers to fight back. They deserve a refund."

Vinson & Elkins is a Houston-based law firm hired by the City of San Diego on February 18, 2004 to investigate the City's financial disclosure practices and its pension system as well as to represent the City before the U.S. Securities and Exchange Commission (SEC) which was investigating the City. On September 16, 2004, Vinson & Elkins released its investigative report. The law firm's contract was terminated in 2005 after it was paid \$6.2 million for its work.

According to the City Attorney's investigative report, "Vinson & Elkins entered into at least two contractually binding Agreements for services with the City. These services included representation by Vinson & Elkins of the City in defense of the SEC investigation, the investigation and subsequent preparation of an objective and independent Report regarding the City's then – current and past financial disclosure practices; and then by extension of the City Council, the preparation of a second Report to correct the shortcomings of its initial Report ("Agreements"). Pursuant to these Agreements, Vinson & Elkins was required to comply with the applicable professional standards of care."

Some of the breaches of contract committed by V&E include:

- a. Failure to perform an investigation with an "initial scope" that "will be agreed upon by separate cover";

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- b. Failure to prepare a Report that would “not be an advocacy document,” but would be an “objective ‘warts and all’ report”;
- c. Failure to prepare a second Report that adhered to the same objective and independent standards;
- d. Failure to perform work at a discount “in recognition of the governmental nature of the client”;
- e. Charging the City for unnecessary work;
- f. Failure to limit the number of V&E partners and associate attorneys performing the work as specified;
- g. Failure to conduct an investigation into potential illegal acts by City and SDCERS; and
- h. Failure to conduct its investigation in a manner sufficient to meet the required professional auditing standards.

Interim Report #9 is the latest in a series of public reports on the ongoing pension investigation issued by the City Attorney that outlines and analyzes the actions of the San Diego City Employees’ Retirement System, City officials, and outside consultants. The Interim Investigative Reports can be found on the City Attorney Website at [www.sandiegocityattorney.org](http://www.sandiegocityattorney.org).

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